

Right of Way Checklist

Any project can have a right of way issue. Sometimes, the question of whether or not right of way needs to be acquired is answered at the field review or during the preliminary engineering phase.

What is right of way? Generally, it is the right to pass over another's land. More specifically, it is real property needed for a public project. The right to pass over another's land for the public project must be "acquired" or transferred to the public agency in some manner.

The need for property can be permanent or temporary, in fee (control of all rights) or in easement (use of some of the rights), and be a direct or indirect result of the project.

Some right of way issues are created when the need for real property is affected by the following:

- Design requires all or a portion of property for the construction of the project (acquisition).
- Project design eliminates access to or from an individual's real property.
- Need for a temporary right to cross the property during construction of the project (temporary construction easement).
- Need to relocate utility service lines or facility outside of the project area (utility relocation).
- Need to purchase or build a replacement structure for an occupant being displaced by the project (relocation assistance).
- Owners want to privately develop their own property and the local jurisdiction requires some part of the property be dedicated for future right of way.
- Owner wants to assist the local jurisdiction by providing property for the public project and is willing to do so for little or no payment (donation).
- Environmental process requires the investigation of possible native american burial sites, hazardous wastes, endangered animals on private property (permit).
- Need to construct driveways or other approaches onto the property of adjoining owners (permit to enter).

- Need to investigate and or remove hazardous materials and waste.
- Operating railroad facility needs to be moved or crossed or modified.
- Need to enter onto property for a limited period of time (right of entry).
- Project as determined by a court ruling only after an occupant filed an inverse condemnation or a relocation assistance appeal.

Project applicants are encouraged to contact their Caltrans District Local Assistance Transportation Enhancement Activities Coordinator for additional information about the Right of Way phase of a transportation enhancement activities project.